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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,672	01/07/2004	Jose Miguel Cabezas	018579.0082US1	6781
34284	7590	06/11/2008		
Rutan & Tucker, LLP. 611 ANTON BLVD SUITE 1400 COSTA MESA, CA 92626			EXAMINER BOCHNA, DAVID	
			ART UNIT 3679	PAPER NUMBER
			MAIL DATE 06/11/2008	DELIVERY MODE PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSE MIGUEL CABEZAS

Appeal 2008-2349
Application 10/753,672
Technology Center 3600

Decided: June 11, 2008

Before EDWARD C. KIMLIN, CHARLES F. WARREN, and
ROMULO H. DELMENDO, *Administrative Patent Judges*.

DELMENDO, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from a final rejection of claims 1-7. (Final Office Action mailed March 31, 2005). Claims 8-11, the only other pending claims, have been objected to, but indicated as allowable

if rewritten in independent form. (*Id.*). We have jurisdiction under 35 U.S.C. § 6(b).

Appellant's invention is directed to a pipe flange having a flange face and central bore, where "the face compris[es] an internal flange recess extending into the flange and surrounding the bore . . . [and] the internal flange recess comprises a textured surface at least partially surrounding the bore." (Spec. 3, ll. 12-16).

Representative claim 1 reads as follows:

1. A pipe flange apparatus comprising a first pipe flange having a frontal face surrounding a central bore passing through the flange, the face comprising an internal flange recess extending into the flange and surrounding the bore, and a groove extending into the flange and surrounding the internal flange recess, wherein the internal flange recess comprises a textured surface at least partially surrounding the bore such that the textured surface is adapted to engage another surface.

The prior art references relied upon by the Examiner to reject the claims on appeal are:

Egner	U.S. 5,573,282	Nov. 12, 1996
Campbell	U.S. 6,543,811	Apr. 8, 2003

The Examiner rejected claims 1-5 under 35 U.S.C. § 102(b) as anticipated by Egner. Further, the Examiner rejected claims 1-7 under 35 U.S.C. § 102(e) as anticipated by Campbell.

We AFFIRM.

ISSUES

Has Appellant shown the Examiner reversibly erred in determining claims 1-7 are anticipated by the prior art?

inward movement of the conical surface of sector A.” (Col. 5, ll. 52-55; Fig. 3).

5. Egner discloses a protrusion at recessed space Y extending from surface 11 of internal recessed space X. (Fig. 3).

6. In the Specification, Appellant describes a “textured surface” as “formed with gaps or *other features* adapted to engage a surface of a plastic flange in order to form a better seal with, and/or to better retain the plastic flange.” (Emphasis added; Spec. 10, ll. 17-19).

7. Fig 4 of Campbell is reproduced below:

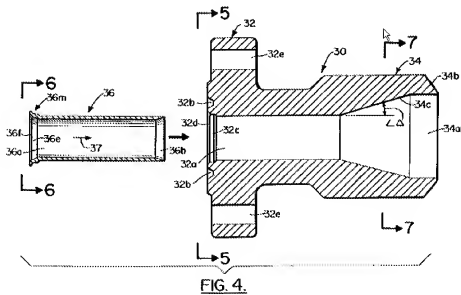


Figure 4 depicts a cross-sectional view of flange 30 having flange section 32 with grooves 32c and 32d to engage liner section 36m for seating liner 36. (Col. 4, ll. 46-51).

PRINCIPLES OF LAW

“It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim” *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986).

ANALYSIS

The Anticipation of Claims 1-5 by Egner.

Appellant groups claims 1-5 together, submitting specific arguments directed to claim 1, and does not argue the separate patentability of claims 2-5. (Br. 3-5). Accordingly, we select claim 1 as representative of the rejected claims and confine our discussion to this claim. 37 C.F.R. § 41.37(c)(1)(vii) (2005).

The Examiner found that Egner discloses a pipe flange apparatus having a first pipe flange S with a frontal face and central bore (defined by a space surrounded by the flange S), with the face having an internal flange recess X extending into the flange and surrounding the bore, and a groove Z extending into the flange S and surrounding the recess X. (FF 1). The Appellant does not dispute these findings, but contends that Egner does not disclose “an internal flange recess comprising a textured surface.” (Br. 5, ll. 4-5).

Appellant asserts that a textured surface, as described in the Specification, must be “a surface formed with gaps or *other features* adapted to engage a surface of a plastic flange in order to form a better seal with, and/or to better retain the plastic flange.” (Emphasis added; Br. 4, ll. 13-18; FF 6). Furthermore, Appellant contends that the description of a “textured surface” requires that the surface “is adapted to engage another surface.” (*Id.* 4, ll. 21-22). Appellant argues that “[b]ased on the meaning of ‘textured

surface' within the specification, its use in the figures, and its use as a limitation in the claims, Egner cannot be said to disclose an internal flange recess comprising a textured surface." (*Id.* 5, ll. 3-5).

We find Appellant's arguments unpersuasive. The features of a "textured surface" are disclosed in the prior art. Specifically, we find that Egner discloses a surface having "features" that are "adapted to engage a surface of a plastic flange" so as to "form a better seal with, and/or to better retain the plastic flange." These features include a "convex conical surface" that "produces a camming or wedging action tending to prevent radial inward movement" of a plastic liner flange (FF 2, 3, 4), and a protrusion Y, that extends from the surface of the internal recess X. (FF 5). In view of Egner's explicit disclosure of a recess surface having both a conical surface preventing movement to retain a plastic flange and a protrusion that engages a portion of the plastic flange, it reasonably appears that the prior art recess surface would better retain the plastic flange, as compared to recess surfaces without the disclosed features.

We find nothing in Appellant's description of a "textured surface" that limits the claimed invention to structures patentably distinguishable from the prior art. Furthermore, Appellant has not shown that the prior art lacks a "textured surface." *In re Spada*, 911 F.2d 705, 708 (Fed. Cir. 1990) ("[W]hen the PTO shows sound basis for believing that the products of the applicant and the prior art are the same, the applicant has the burden of showing that they are not."). Accordingly, we find that Appellant has failed to show that the Examiner reversibly erred in determining Egner anticipates the claimed invention.

The Anticipation of Claims 1-7 by Campbell.

Appellant groups claims 1-7 together, again submitting specific arguments directed to claim 1, and does not argue the separate patentability of claims 2-7. (Br. 5). Accordingly, we select claim 1 as representative and confine our discussion to this claim. 37 C.F.R. § 41.37(c)(1)(vii).

Appellant argues that “Campbell also fails to disclose an internal flange recess that comprises a textured surface.” (Br. 5, ll. 9-10). Furthermore, Appellant asserts that the claimed surface distinguishes from the prior art “such that the surface is adapted to engage another surface.” Again, relying on the Specification’s description of a “textured surface,” Appellant contends that “Campbell also fails as an anticipatory reference.”

Appellant’s arguments are again unpersuasive to show the Examiner reversibly erred. Campbell discloses a flange section 32 having a recess surface with “features” comprising grooves 32c and 32d that seat the flange section of a liner 36. (FF 7). With these grooves, it reasonably appears that the prior art structure will better retain a flange of any material. That is, a recess surface having grooves would better retain a flanged liner than a recess surface without grooves. Once again, we find nothing in Appellant’s description of a “textured surface” that limits the claimed invention to structures patentably distinguishable from those disclosed by the prior art. Furthermore, Appellant fails to show that the prior art structure does not have a “textured surface.” Accordingly, Appellant has not met his burden to show that the Examiner reversibly erred in determining the claimed invention is anticipated by Campbell.

CONCLUSION OF LAW

On this appeal record, Applicant has failed to show that the Examiner reversibly erred in finding that the appealed claims are anticipated by the prior art.

The Examiner's decision to reject appealed claims 1-7 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

tf/lb

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